

qualifying an offering statement pursuant to the provisions of Regulation A (§§ 230.251-230.263 of this chapter); and

(9) Documents filed with the Commission pursuant to section 33 of the Investment Company Act (15 U.S.C. 80a-32); and

(c) *Documents to be submitted in paper only.* The following shall not be submitted in electronic format:

(1)(i) Confidential treatment requests and the information with respect to which confidential treatment is requested;

(ii) Preliminary proxy materials and information statements with respect to a matter specified in Item 14 of Schedule 14A (§240.14a-101 of this chapter) for which confidential treatment has been requested in the manner prescribed by Rule 14a-6(e)(2) (§240.14a-6(e)(2) of this chapter) or Rule 14c-5(d)(2) (§240.14c-5(d)(2) of this chapter);

(2) Supplemental information, if the submitter requests that the information be protected from public disclosure under the Freedom of Information Act (5 U.S.C. 552) pursuant to a request for confidential treatment under Rule 83 (§200.83 of this chapter) or if the submitter requests that the information be returned after staff review and the information is of the type typically returned by the staff pursuant to Rule 418(b) of Regulation C (§230.418(b) of this chapter) or Rule 12b-4 of Regulation 12B (§240.12b-4 of this chapter);

(3) Shareholder proposals and all related correspondence submitted pursuant to Rule 14a-8 of the Exchange Act (§240.14a-8 of this chapter);

(4) No-action and interpretive letter requests (§200.81 of this chapter and 15 U.S.C. 78l(h));

(5) Applications for exemptive relief filed pursuant to Sections 304 and 310 of the Trust Indenture Act;

(6) Filings relating to offerings exempt from registration under the Securities Act, including filings made pursuant to Regulation A (§§ 230.251-230.263 of this chapter), as well as filings on Form 144 (§239.144 of this chapter) where the issuer of the securities is not subject to the reporting requirements of section 13 or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d), respectively);

(7) Promotional and sales material submitted pursuant to Securities Act Industry Guide 5 (§229.801(e) of this chapter) or otherwise supplementally furnished for review by the staff of the Division of Corporation Finance;

(8) Documents and symbols in a foreign language (see Rule 306 of Regulation S-T (§232.306));

(9) Exchange Act filings submitted to the Division of Market Regulation other than those that are submitted in electronic format as mandated or permitted electronic submissions under paragraph (a) and (b) of this section or that are submitted electronically in a filing system other than EDGAR.

(10) Documents relating to investigations and litigation submitted pursuant to the Subpart D of Part 201 of this chapter;

(11) [Reserved]

(12) Annual Reports to Security Holders furnished by Public Utility Holding Companies under Exhibit A to Form U5S (§259.5s of this chapter) or under rule 29 (§250.29 of this chapter);

(13) Reports to State Commissions, if furnished by Public Utility Holding Companies under Exhibit E to Form U5S (§259.5s of this chapter);

(14) Maps furnished by Public Utility Holding Companies under Exhibits E to Forms U5B and U-1 (§§ 259.5b and 259.101 of this chapter);

(15) Annual reports filed with the Commission by indenture trustees pursuant to Section 313 of the Trust Indenture Act (15 U.S.C. 77mmm); and

(16) Applications for an exemption from Exchange Act reporting obligations filed pursuant to Section 12(h) of the Exchange Act (15 U.S.C. 78l(h)).

[58 FR 14670, Mar. 18, 1993; 58 FR 26383, May 3, 1993]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 232.101 see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§ 232.102 Exhibits.

(a) Exhibits to an electronic filing that have not previously been filed with the Commission shall be filed in electronic format, absent a hardship exemption. Previously filed exhibits, whether in paper or electronic format, may be incorporated by reference into

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an electronic filing to the extent permitted by § 228.10(f) and § 229.10(d) of this chapter, Rule 411 under the Securities Act (§ 230.411 of this chapter), Rule 12b-23 or 12b-32 under the Exchange Act (§ 240.12b-23 or § 240.12b-32 of this chapter), Rule 22 under the Public Utility Holding Company Act (§ 250.22 of this chapter), Rules 0-4, 8b-23, and 8b-32 under the Investment Company Act (§ 270.0-4, § 270.8b-23 and § 270.8b-32 of this chapter) and Rule 303 of Regulation S-T (§ 232.303). An electronic filer may, at its option, restate in electronic format an exhibit incorporated by reference that originally was filed in paper format.

NOTE TO PARAGRAPH (a): Exhibits to a Commission schedule filed pursuant to Section 13 or 14(d) of the Exchange Act may be filed in paper under cover of Form SE where such exhibits previously were filed in paper (prior to a registrant's becoming subject to mandated electronic filing or pursuant to a hardship exemption) and are required to be refiled pursuant to the schedule's general instructions. See Rule 311(b) of Regulation S-T (17 CFR 232.311(b)).

(b) Amendments to all exhibits shall be filed in electronic format, absent a hardship exemption.

(c) Notwithstanding any other provision of this section, an electronic filer shall, upon amendment, restate in electronic format its articles of incorporation, by-laws or investment advisory agreement (in the case of a registered investment company or a business development company).

(d) Each electronic filing requiring exhibits must include an exhibit index which must immediately precede the exhibits filed with the document. The index must list each exhibit filed, whether filed electronically or in paper. Whenever a filer files an exhibit in paper pursuant to a temporary or continuing hardship exemption (§ 232.201 or § 232.202) or pursuant to § 232.311, the filer must place the letter "P" next to the listed exhibit in the exhibit index of the electronic filing to reflect the fact that the filer filed the exhibit in paper. In addition, if the exhibit is filed in paper pursuant to § 232.311, the filer must place the designation "Rule 311" next to the letter "P" in the exhibit index. If the exhibit is filed in paper pursuant to a tem-

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porary or continuing hardship exemption, the filer must place the letters "TH" or "CH," respectively, next to the letter "P" in the exhibit index. Whenever an electronic confirming copy of an exhibit is filed pursuant to a hardship exemption (§ 232.201 or § 232.202(d)), the exhibit index should specify where the confirming electronic copy can be located; in addition, the designation "CE" (confirming electronic) should be placed next to the listed exhibit in the exhibit index.

(e) Notwithstanding the provisions of paragraphs (a) through (d) of this section, any incorporation by reference by a registered investment company or a business development company must relate only to documents that have been filed in electronic format on the EDGAR system, unless the document has been filed in paper under a hardship exemption (§ 232.201 or § 232.202) and any required confirming electronic copy has been submitted.

(f) Persons submitting filings electronically under the Public Utility Act shall not be subject to paragraph (c) of this section.

[58 FR 14670, Mar. 18, 1993, as amended at 59 FR 67762, Dec. 30, 1994; 60 FR 32824, June 23, 1995; 62 FR 36457, July 8, 1997; 64 FR 27894, May 21, 1999; 70 FR 43569, July 27, 2005]

§ 232.103 Liability for transmission errors or omissions in documents filed via EDGAR.

An electronic filer shall not be subject to the liability and anti-fraud provisions of the federal securities laws with respect to an error or omission in an electronic filing resulting solely from electronic transmission errors beyond the control of the filer, where the filer corrects the error or omission by the filing of an amendment in electronic format as soon as reasonably practicable after the electronic filer becomes aware of the error or omission.

[65 FR 24800, Apr. 27, 2000]

§ 232.104 Unofficial PDF copies included in an electronic submission.

(a) An electronic submission, other than a Form 3 (§ 249.103 of this chapter), a Form 4 (§ 249.104 of this chapter), a Form 5 (§ 249.105 of this chapter), a Form ID (§§ 239.63, 249.446, 269.7 and